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7 *BTO INVESTMENTS, INC.*

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA  
10

11 HOLLY MARIE WOOD, an individual,  
12 Plaintiff,  
13

14 vs.

15 CARL'S JR., operated and owned by BTO  
INVESTMENTS, a Delaware corporation;  
S.L. INVESTMENTS, a Nevada  
16 corporation; CKE RESTAURANTS, INC., a  
Delaware corporation; CARL'S JR.  
17 RESTAURANTS, LLC, a foreign limited  
liability company; CARL KARCHER  
18 ENTERPRISES, INC., a foreign  
corporation; CKE RESTAURANTS  
19 HOLDINGS, INC., a foreign corporation;  
RUCEY MOLINA CRUZ, an individual;  
20 DOES 1 through 10, inclusive; ROE  
CORPORATIONS/ENTITIES 1 through 10,  
21 inclusive;

22 Defendants.  
23

CASE NO. 2-20-cv-02329-APG-BNW

AMENDED STIPULATED DISCOVERY  
PLAN AND SCHEDULING ORDER  
(SECOND REQUEST)

***SPECIAL SCHEDULING REVIEW  
REQUESTED***

24  
25 Pursuant to Federal Rule of Civil Procedure ("FRCP") 26 and Local Rule 26-1, the  
26 parties in this action submit the following Amended Stipulated Discovery Plan and  
27 Scheduling Order (Second Request) subject to the Court's review and approval:

28 ///

## I.

INITIAL MATTERS**A. Meeting Between The Parties' Counsel**

Pursuant to FRCP 26(f), the undersigned parties, by and through their respective counsel, conferred on June 10, 2021. Paul S. Padda, Esq. represented Plaintiff Holly Marie Wood; Bruce Young, Esq. represented Defendant BTO Investments, Inc.; Karie N. Wilson, Esq. represented Defendants Carl's Jr. Restaurants, LLC, CKE Restaurants Holdings, Inc., CKE Restaurants, Inc., and Carl Karcher Enterprises, Inc. (hereinafter, the "CKE Defendants"); and David T. Gluth II, Esq. represented S.L. Investments. S.L. Investments filed an Answer to Plaintiff's Complaint on March 25, 2021, after the Court entered its original Scheduling Order (ECF No. 30) on February 25, 2021.

**B. The Parties' Position On Alternative Dispute Resolution**

The parties hereby certify that they communicated regarding the possibility of resolution of this case through means of alternative dispute resolution (i.e. arbitration, mediation, early neutral evaluation). An Early Neutral Evaluation session was held in this case on March 10, 2021 (ECF No. 36) but was unsuccessful. Mediation was initially set for September 27, 2021, but is in the process of being rescheduled.

**C. The Parties' Position On Trial By United States Magistrate Judge And/Or Short Trial Program**

Under FRCP 73, a United States Magistrate Judge may "conduct a civil action or proceedings" if "all parties consent." The parties, by and through their respective counsel, are in agreement that this case should proceed on the normal track with the currently assigned United States District Judge presiding.

## II.

DISCOVERY COMPLETED

The parties have conducted the following discovery to date:

1. Plaintiff served her Initial Disclosures on March 3, 2021;
2. Defendant BTO Investments, Inc. served its Initial Disclosures on March 5,

- 1 2021;
- 2 3. CKE Defendants served their Initial Disclosures on March 3, 2021;
- 3 4. Defendant BTO Investments, Inc. propounded its First Set of Interrogatories
- 4 and First Set of Requests for Production to Plaintiff on March 25, 2021;
- 5 5. Plaintiff served her First Supplement to Initial Disclosures on April 26, 2021;
- 6 6. Plaintiff served her Responses to Defendant BTO Investments, Inc.'s First
- 7 Set of Interrogatories and First Set of Requests for Production on April 26, 2021;
- 8 7. Plaintiff propounded her First Set of Interrogatories and First Set of
- 9 Requests for Production to Defendant BTO Investments, Inc. on April 27, 2021;
- 10 8. CKE Defendants served their First Supplement to Initial Disclosures on April
- 11 30, 2021;
- 12 9. CKE Defendants propounded their First Set of Interrogatories and First Set
- 13 of Requests for Production to Plaintiff on June 10, 2021;
- 14 10. Defendant S.L. Investments served Initial Disclosures on June 19, 2021;
- 15 11. Defendant BTO Investments, Inc. served its First Supplement to Initial
- 16 Disclosures on June 25, 2021;
- 17 12. Defendant BTO Investments, Inc. served its Responses to Plaintiff's First
- 18 Set of Interrogatories and First Set of Requests for Production on June 25, 2021;
- 19 13. Plaintiff served her Responses to the CKE Defendants' First Set of
- 20 Interrogatories and First Set of Requests for Production on July 12, 2021;
- 21 14. Plaintiff propounded her Second Set of Interrogatories to Defendant BTO
- 22 Investments, Inc. on July 28, 2021;
- 23 15. Plaintiff propounded her First Set of Requests for Production to Defendant
- 24 S.L. Investments on July 28, 2021;
- 25 16. Defendant S.L. Investments propounded its First Set of Requests for
- 26 Admissions to Defendant BTO Investments, Inc. on August 6, 2021; and
- 27 17. Defendant BTO Investments, Inc. served its Responses to Plaintiff's Second
- 28 Set of Interrogatories on August 27, 2021.

1 III.

2 AREAS OF DISCOVERY

3 The undersigned parties agree that the areas of discovery should include, but not  
4 be limited to, all claims and defenses permitted by the Federal Rules of Civil Procedure,  
5 including issues of liability and damages.

6 IV.

7 DISCOVERY DEADLINES

8 Local Rule 26-1(b)(1) provides that “unless otherwise ordered, discovery periods  
9 longer than one hundred and eighty (180) days from the date the first defendant answers  
10 or appears will require special scheduling review.” On February 23, 2021, the Court  
11 granted the parties’ Proposed Discovery Plan and Scheduling Order, approving the  
12 parties’ request for a 240-day discovery period, as reasonable and necessary, in light of  
13 the impact of the COVID-19 pandemic. (Doc. 30). On June 25, 2021, the Court granted  
14 the parties’ Amended Plan and Scheduling Order, approving the parties’ request that an  
15 additional 90 days be added to the discovery period, for a total of 330 days, based on  
16 certain extenuating circumstances, including the unsuccessful Early Neutral Evaluation  
17 on March 10, 2021 leading to the entry of Defendant S.L. Investments into the suit, the  
18 withdrawal of CKE Defendants’ former attorneys and the appearance of their current  
19 attorneys, the pending service of Defendant Rucey Molina Cruz, written discovery  
20 extensions, the continuation of Plaintiff’s deposition, the anticipated need for the  
21 depositions of additional fact witnesses and Plaintiff’s treating physicians, and inadvertent  
22 errors in the calculation of the original Order. (Doc. 48).

23 The parties now propose that an **additional 60 days** be added to the 330-day  
24 discovery period, for a total of **390 days**. The parties have been diligently working to  
25 complete discovery in accordance with the current deadlines. However, certain factors  
26 have necessitated an extension of the current deadlines.

27 First, the parties have agreed to mediate the case. Mediation was initially set for  
28 September 27, 2021, but is in the process of being rescheduled. This extension will

1 afford the parties additional time to consider opportunities for early settlement without  
2 incurring unnecessary discovery costs.

3 Second, Defendant BTO Investment Inc. has a new handling attorney. Defendant  
4 BTO Investments, Inc. is represented by the law firm Lewis Brisbois Bisgaard & Smith,  
5 LLP. The original handling attorney, Bruce C. Young, Esq., left the firm. The case was  
6 internally reassigned to Josh Cole Aicklen and Jesselyn V. De Luna.

7 Third, Plaintiff has not yet been able to effectuate service of the Summons and  
8 Complaint on Defendant Rucey Molina Cruz. Plaintiff therefore sought and was granted  
9 additional time to effectuate service. The Court's Order dated May 5, 2021, extended  
10 service upon Defendant Rucey Molina Cruz "up to and including 180 days from [the]  
11 Order," or until November 1, 2021. (Doc. 44).

12 Fourth, the parties also anticipate the need for the deposition of additional fact  
13 witnesses, including former employees of the restaurant where Plaintiff was previously  
14 employed. Some of these witnesses may be difficult to locate as several were teenagers  
15 or young adults who stopped working for Defendant BTO in 2018, nearly three years ago.  
16 In addition, Plaintiff is seeking emotional distress damages and damages for alleged  
17 future medical care and the parties therefore anticipate the need for depositions of  
18 Plaintiff's treating physicians including, but not limited to, physicians at UMC Trauma, Dr.  
19 Norton Roitman, Dr. Ruth Ramirez, and Dr. Ron Zedek. Coordinating these depositions  
20 and accommodating the work and vacation schedules for the witnesses and the attorneys  
21 involved is expected to necessitate additional discovery time.

22 For all these reasons, the parties respectfully request that the applicable discovery  
23 deadlines be extended an additional 60 days. Upon a showing of good cause, this Court  
24 is authorized to modify the discovery schedule. *See*, FRCP 6(b)(1)(A); LR 26-4. "The  
25 district court may modify the pretrial schedule if it cannot reasonably be met despite the  
26 diligence of the party seeking the extension." *Johnson v. Mammoth Recreations, Inc.*,  
27 975 F.2d 604, 609 (9th Cir. 1992). Based upon the date the first Defendant answered or  
28 otherwise appeared (December 23, 2020) (Doc. 1), the undersigned parties hereby

1 propose the following discovery schedule pursuant to the LR 26-1 (April 17, 2020):

Current Discovery Plan & Scheduling Order		<i>Proposed</i> Amended Discovery Plan & Scheduling Order
Event	Current Deadline	Proposed Deadline
Discovery Cut-Off	November 18, 2021 (Thursday)	January 17, 2022 (Monday)  [390 Days from date first defendant answers or appears - LR 26-1(b)(1)]
Amending Pleadings Adding Parties	August 20, 2021 (Friday)	October 19, 2021 (Tuesday)  [90 Days Before Close of Discovery - LR 26-1(b)(2)]
Initial Expert Disclosures	September 20, 2021 (Monday)	November 18, 2021 (Thursday)  [60 Days Before Close of Discovery - LR 26-1(b)(3)]
Rebuttal Expert Disclosures	October 20, 2021 (Wednesday)	December 20, 2021 (Monday)  [30 days after the Initial Disclosure of Experts - LR 26-1(b)(3) is a Saturday, 12/18/21]
Dispositive Motions	December 20, 2021 (Monday)	February 16, 2022 (Wednesday)  [30 Days After Close of Discovery - LR 26-1(b)(4)]
Pre-Trial Order	January 19, 2022	March 18, 2022  [30 Days After the Dispositive Motion Deadline - LR 26-1(b)(5)]

1 With respect to the Pre-Trial Order, if dispositive motions are filed, the deadline for  
2 filing a Joint Pre-Trial Order will be suspended until 30-days after a decision on the  
3 dispositive motion(s) is/are rendered or until further Court notice. See Local Rule 26-1  
4 (b)(5).

5 V.

6 DISCOVERY DEADLINES

7 If the Court has questions regarding the dates proposed by the parties, the parties  
8 request an opportunity for a conference with the Court before entry of this proposed  
9 amended Scheduling Order. If the Court does not have questions, the parties do not  
10 request a conference with the Court. All written discovery previously served with  
11 responses that are otherwise outstanding shall not be affected by any subsequent  
12 amended Order, unless the parties agree otherwise in writing.

13 VI.

14 EXTENSIONS OR MODIFICATIONS OF DISCOVERY DATES

15 This Court's Local Rule 26-3 governs modifications or extensions of this Discovery  
16 Plan and Scheduling Order. According to the rule, "[a]ll motions or stipulations to extend  
17 a deadline set forth in a discovery plan shall be received by the court no later than twenty-  
18 one (21) days before the expiration of the subject deadline."

19 VII.

20 FORMAT OF DISCOVERY

21 Pursuant to the electronic discovery amendments to the Federal Rules of Civil  
22 Procedure effective December 1, 2006, the undersigned parties addressed the e-  
23 discovery issues pertaining to the format of discovery at the FRCP 26(f) conference. The  
24 parties agree that to the extent electronic discovery is requested or produced, such  
25 discovery shall be carried out in accordance with the procedures set forth in FRCP 34(b)  
26 and 26(b).

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## VIII.

DISCOVERY DISPUTES

All discovery disputes in this case shall be governed by the provisions of Local Rule 26-6. The parties agree to employ good faith efforts to resolve all discovery disputes prior to seeking intervention by the Court.

## IX.

PRESENTATION OF ELECTRONIC EVIDENCE TO A JURY

The parties certify that they communicated whether they intend to present evidence in electronic format to jurors for the purpose of jury deliberations. At this time, the parties have not made any stipulations regarding providing discovery in an electronic format compatible with the Court's electronic jury evidence display system.

*Respectfully Submitted by:*

**PAUL PADDA LAW**

*/s/ Paul S. Padda*

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Dated: September 7, 2021.

*Respectfully Submitted by:*

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*/s/ Josh Cole Aicklen*

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Dated: September 7, 2021.



*Wood v. Carl's Jr., et al.*  
2:20-cv-02329-APG-BNW

*Respectfully Submitted by:*

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*/s/ Karie N. Wilson*

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LLC, Carl Karcher Enterprises, Inc., CKE  
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Dated: September 7, 2021.

*Respectfully Submitted by:*

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Dated: September 7, 2021.

**Order**

IT IS ORDERED that ECF No. 54 is  
GRANTED. The parties are advised,  
however, that the Court does not  
intend to grant additional discovery  
extensions.

**IT IS SO ORDERED**

**DATED:** 9:36 am, September 08, 2021



**BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE**